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FISCAL IMPACT REPORT

SPONSOR: Foley DATE TYPED: 03/15/03 HB 959/aHTRC

SHORT TITLE: Delinquent Property Tax Collection SB _____

ANALYST: Gilbert

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	\$162.5	\$325.0	Recurring	County Funds
	(\$162.5)	(\$325.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Relates to SB 497

LFC Files

Response Received

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment to House Bill 959 limits counties with the option to collect delinquent taxes and with authority to contract for delinquent tax collection to class A counties with populations of 350,000 or more according to the latest federal decennial census.

Bernalillo County is currently the only class A county to meet the provisions of this amendment. If Bernalillo County opted for 100 percent collection, the state would lose approximately \$325,000 in annual revenues.

Synopsis of Original Bill

House Bill 959 allows Class A counties (Bernalillo, Santa Fe, Dona Ana and San Juan) to super-

sede the Taxation and Revenue Department's (TRD) role in selling tax delinquent properties. Instead, county commissioners could contract with private attorneys to engage in collection activities. Contracts with the attorneys would prevent their collecting taxes on certain owner-occupied residential properties based on property value, age and income of owners. County employees would perform collection efforts on properties excluded in contracts. Counties opting to engage in property sales would be allowed to rescind their decisions and return responsibility to the TRD.

Significant Issues

HB 959 sets no limit on the fees Class A counties may impose for collecting delinquent property taxes. Currently, TRD imposes a \$25 fee for these services.

County treasurers are elected officials responsible for collecting property taxes. However, HB 959 would grant county commissioners the authority to decide who will perform collections (the county treasurer or private attorneys).

County officials have authority to collect property taxes via contract with private attorneys, but, if they fail to accomplish collection after two years, the TRD is given authority to collect. The proposed measure would thus effectively eliminate limits on time allowed to counties to collect delinquent accounts – and on the time required for other property tax recipients to receive distributions.

The motivation of individuals collecting delinquent taxes under HB 959 may be very different than under the current system. Sales of delinquent properties are currently the last resort to collect taxes. TRD generally prefers that property owners pay taxes and avoid foreclosure and sale. Individuals working in Class A counties under the proposed system are likely to be motivated by potential profit.

FISCAL IMPLICATIONS

Approximately \$17 billion, or 60% of the state's assessed property value is in Class A counties. Collections of penalty, interest and other costs associated with delinquent properties averaged approximately \$1.3 million in the past two fiscal years, 50% of which was in Class A counties. If all Class A counties opted for 100% collection activities, the state would lose approximately \$650.0 in annual general fund revenues.

ADMINISTRATIVE IMPACT

About 57,000 properties were on delinquency lists during the past three years. TRD collects on, via sale or field collections, about 6,500 of these accounts. The Department imposes a flat fee of \$25 in collection costs, and typically charges property owners a total of \$160.0, of which \$40.0 is paid by property owners in Class A counties. The number of people employed in the TRD Delinquent Property Tax Bureau would probably decrease by a proportionate amount. The Bureau currently employs 17 full-time employees.

TECHNICAL ISSUES

According to TRD, HB 959 may violate equal protection provisions of the U.S. and New Mexico

Constitutions. First, property owners in Class A counties may receive different distributions due to collection fees imposed by private attorneys after sale of properties than similar owners in other counties. Secondly, taxpayers may be denied equal protection under law due to provisions in HB 959 allowing collection by private attorneys on the basis of age, income or property value.

OTHER SUBSTANTIVE ISSUES

HB 959 does not require counties to assume responsibility for mistakes in collecting taxes and conducting property sales. The TRD Legal Services Bureau may be responsible for intervening in these types of cases.

RELATION

SB 497 is similar to HB 959, except that it does not limit private attorney compensation for property tax collection to 30% of the total delinquent taxes, interest, and penalties.

RLG/yr/njw